

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VALVE CORPORATION,

Plaintiff,

v.

THOMAS ABBRUZZESE et al.,

Defendants.

CASE NO. 2:24-cv-1717-JNW

ORDER

The Court raises this matter on its own accord. On October 18, 2024, Valve Corporation filed a Petition to Enjoin Arbitrations, seeking to enjoin 624 of its Steam users from pursuing arbitrations because, it says, there is no agreement to arbitrate between the parties. Dkt. No. 1. Valve’s Petition alleges that it is entitled to relief under the Declaratory Judgment Act (28 U.S.C. § 2201), the All Writs Act (28 U.S.C. § 1651(a)), and Section 4 of the Federal Arbitration Act, which allows a party “aggrieved by the alleged . . . refusal to arbitrate under a written agreement for arbitration [to] petition . . . the district court . . . for an order directing that such arbitration proceed in the manner provided for in such agreement” (9 U.S.C. § 4). Dkt. No. 1 at 47. Additionally, Valve’s “Prayer for Relief” requests “any other relief

1 that the Court deems just and appropriate.” *Id.* Given the various legal claims and
2 prayer for relief, the Court construes the Petition at this point as a complaint.

3 Along with the Petition, Valve filed a “Memorandum of Points and
4 Authorities in Support of Petition to Enjoin Arbitrations.” Dkt. No. 2. Although they
5 are separate filings, Valve refers to the Petition and Memorandum jointly as its
6 “Petition.” This creates uncertainty about the intended purpose of each, but under
7 the circumstances, the Court construes the Memorandum as a separate motion
8 seeking injunctive relief while the merits of the Petition are litigated. *See id.* at 23.
9 Valve filed the Memorandum ex parte, before it served Respondents, and noted it
10 for November 22, 2024—some 35 days after filing, rather than the typical 28-day
11 period for motions seeking a preliminary injunction. *See* LCR 7(d)(4) (providing for
12 same-, 14-, 21-, and 28-day motions in the case preliminary injunction motions).

13 After filing its Petition, Valve moved—also ex parte—to communicate directly
14 with Respondents outside the presence of their counsel. Dkt. No. 12. The Court
15 denied Valve’s request because “Valve ha[d] failed to justify why the Court should
16 grant its motion before the other side has appeared” or even been served.
17 Dkt. No. 14. Since then, Valve has personally served some, *see* Dkt. Nos. 27–35, but
18 not all Respondents with its Petition and Memorandum, *see* Dkt. No. 26 at 2. And it
19 wishes to maintain “the current noting date of *the Petition* of November 22, 2024,”
20 for those Respondents it has served while renoting “the Petition” to December 2,
21 2024, for Respondents who have yet to be served. Dkt. No. 26 at 1–2 (emphasis
22 added).

1 In the meantime, Respondent Luke Ninemire appeared through counsel and
2 moved to stay the case under the Servicemembers Civil Relief Act, Dkt. 20, and
3 Respondents Seth Weber and Griffin Byer also appeared through counsel to request
4 more time to respond to the Petition, Dkt. No. 22. In response, Valve filed a notice
5 withdrawing its Petition against Ninemire, purporting to moot his motion to stay,
6 Dkt. No. 23, and it continues to withdraw its Petition as to various Respondents, *see*
7 Dkt. No. 42. Ninemire, through counsel, accuses Valve of “procedural
8 gamesmanship, which has created confusion concerning the procedural posture of
9 this matter.” Dkt. No. 36.

10 And most recently, Valve has renewed its request to communicate directly
11 with Respondents about this case—a request the Court previously characterized as
12 seeking “to communicate directly with persons represented by counsel about
13 matters in dispute and to convey options about how they may proceed in pending
14 litigation.” Dkt. No. 14 at 2. Without explanation, Valve claims that it will be
15 “irreparably prejudiced” if the motion isn’t heard right away and that it is “without
16 fault in creating the crisis that requires ex parte relief.” Dkt. No. 39 at 5 (quoting
17 *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995)).

18 The Court disagrees. In its rush for relief, Valve has created a procedural
19 minefield that Respondents and the Court must now navigate. Perhaps under any
20 scenario, Valve’s tactical decision to name 624 individual respondents would have
21 created a tricky procedural path for the early stages of this case, but Valve’s filing
22 and refile of motions, renoting the petition, piecemeal withdrawals, and service
23 issues have created needless complications. Counsel for respondents are not without

1 blame, however, as it remains unclear to the Court whether they represent *all*
2 Respondents, and not just those who have appeared, as they have repeatedly
3 suggested. If they represent all Respondents, they should appear on behalf all
4 Respondents and do so promptly.

5 To restore order to the case, the Court orders as follows:

- 6 1. Valve must respond to Respondent Ninemire's motion to stay by
7 December 9, 2024. Dkt. No. 20. If Valve's sole grounds for opposing the
8 motion is mootness, it may say so. Ninemire's reply, if any, is due by
9 December 13, 2024.
 - 10 2. By December 9, 2024, the law firm Bailey Duquette must file a notice of
11 appearance for all other respondents it represents, or in the alternative,
12 file a status report explaining why it cannot do so.
 - 13 3. Respondents must respond to Valve's renewed ex parte motion seeking
14 leave to provide communication to certain respondents, Dkt. No. 39, by
15 December 9, 2024. Valve's reply, if any, is due on December 13, 2024.
 - 16 4. All briefs must follow the word counts established by the Local Civil
17 Rules. *See* LCR 7(e).
 - 18 5. Respondents' deadlines to respond to Valve's Petition, Dkt. No. 1, and
19 Memorandum/motion for injunctive relief, Dkt. No. 2, are STAYED
20 pending resolution of Respondents' motion for extension of time to respond
21 to Valve's Petition, Dkt. No. 20.
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23

Dated this 2nd day of December, 2024.

A handwritten signature in black ink, appearing to read "Jamal N. Whitehead", written over a horizontal line.

Jamal N. Whitehead
United States District Judge